



# Commonwealth of Massachusetts State Ethics Commission

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**SUFFOLK, ss.**

**COMMISSION ADJUDICATORY  
DOCKET NO. 603**

## **IN THE MATTER OF J. NICHOLAS SULLIVAN**

### **DISPOSITION AGREEMENT**

The State Ethics Commission ("Commission") and J. Nicholas Sullivan ("Sullivan") enter into this Disposition Agreement pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court pursuant to G.L. c. 268B, §4(j). On January 19, 2000, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law by Sullivan. The Commission concluded that inquiry, and on February 23, 2000, found reasonable cause to believe that Sullivan violated G.L. c. 268A, §23(b)(3).

The Commission and Sullivan now agree to the following findings of fact and conclusions of law:

1. From 1981 until 1999, Sullivan served as the Newburyport District Court clerk magistrate.<sup>1/</sup> As such, he was a state employee within the meaning of G.L. c. 268A, §1 of the conflict of interest law.
2. When a driver is cited for a motor vehicle violation in Newburyport, the driver may pay the ticket or request a hearing in the Newburyport District Court.
3. As the clerk magistrate, Sullivan presides over such disputed civil motor vehicle citation hearings.
4. Ronald D'Arcangelo ("D'Arcangelo") served as the Newburyport District Court chief of probation since 1994.<sup>2/3/</sup>
5. D'Arcangelo and Sullivan know each other through their official positions as court employees and are friendly.
6. Between 1993 and 1998, D'Arcangelo wrote nine requests to Sullivan for "consideration"<sup>4/</sup> on post-it notes he attached to the court's copies of the motor vehicle citation documents before the file went to Sullivan for a magistrate's hearing.
7. On each such occasion where D'Arcangelo requested consideration, the motorist involved was either a relative or a friend of D'Arcangelo's.
8. On each of the nine occasions indicated above, Sullivan observed D'Arcangelo's notes when the citations came before him for disposition and issued findings of "not responsible" in each case.<sup>5/</sup>

9. Each citation had potential penalties between \$35 and \$100 plus accompanying insurance premium surcharges.

10. Sullivan maintains that although he looked at the “consideration” notes, they had no impact on his resolution of those cases.

11. General Laws chapter 268A, §23(b)(3), in relevant part, prohibits a state employee from, knowingly or with reason to know, acting in a manner which would cause a reasonable person having knowledge of the relevant circumstances, to conclude that any person can improperly influence the employee or unduly enjoy the employee’s favor in the performance of the employee’s official duties, or that the employee is likely to act or fail to act as the result of kinship, rank, position or undue influence of any part or person.

12. By accepting a series of requests for “consideration” from D’Arcangelo, a fellow court employee, and then subsequently issuing findings of “not responsible” in every case where consideration had been so requested, Sullivan knowingly acted in a manner which would cause a reasonable person with knowledge of the relevant circumstances to conclude that D’Arcangelo could improperly influence Sullivan or that the drivers involved could unduly enjoy Sullivan’s favor in the performance of his official duties as clerk magistrate. In so doing, Sullivan violated §23(b)(3).<sup>6/</sup>

In view of the foregoing violations of G.L. c. 268A, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Sullivan:

(1) that Sullivan pay to the Commission the sum of three thousand dollars (\$3,000.00) as a civil penalty for the violation of G.L. c. 268A, §23(b)(3); and

(2) that Sullivan waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceeding to which the Commission is or may be a party.

**DATE: February 29, 2000**

<sup>1/</sup>On January 29, 1999, Chief Justice of the District Court Department Samuel E. Zoll put Sullivan on administrative leave because of the allegations that are addressed in this Disposition Agreement.

<sup>2/</sup>As the Newburyport District Court chief of probation, D’Arcangelo was responsible for overseeing all probation matters under Newbury District Court’s jurisdiction.

<sup>3/</sup>On January 29, 1999, Chief Justice of the District Court Department Samuel E. Zoll put D’Arcangelo on administrative leave because of the allegations that are addressed in this Disposition Agreement.

<sup>4/</sup>By asking for “consideration,” it is clear that D’Arcangelo was seeking that the case receive preferential treatment rather than be judged on its merits.

<sup>5/</sup>“Not responsible” is the statutory terminology for “acquittal” in such cases.

<sup>6/</sup>Sullivan had two options when he received such a request from a fellow court employee. He should have either told D’Arcangelo that such a request was inappropriate and he would not consider it, or he should have disclosed what is in effect an *ex parte* communication on the record and to the Chief Justice of the Supreme Judicial Court.